

24 **WHEREAS**, ensuring that Austin’s concessionaire employers honor their former
25 employees with a right to return that will speed the transition back to a functioning airport
26 when it is safe to do so; **NOW, THEREFORE**,

27 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

28 The City Council directs the City Manager to convene an Airport Concessions
29 workers stakeholder working group with representatives from: the Airport
30 administration, Airport Concessions, UNITE here (impacted workers), and the Economic
31 Development Department; to create and/or develop recommendations for a right to return
32 to work program for impacted concessionaires as those businesses begin to reopen. The
33 working group should explore options to create federally and bond-compliant incentives
34 to encourage concessionaires to re-hire employees who were laid off due to COVID-19
35 before opening these jobs to other applicants.

36 **BE IT FURTHER RESOLVED:**

37 The City Council directs the City Manager, after taking all legal authority and
38 limitations into consideration allowed by Federal Aviation Administration Grant
39 Assurances, federal law, and bond covenants, to include the following considerations in
40 all discussions about a right to return program:

41 (a) Rehire process that may include the following: Each Concessionaire shall offer
42 its Laid-off employees in writing, to their last known physical address, and by
43 email and text message to the extent the Concessionaire possesses such
44 information, all job positions which become available after the Program’s effective
45 date for which the Laid-off employees are qualified. A Laid-off employee is
46 qualified for a position if the Employee:

- 47 (1) held the same or similar position at the Concessionaire at the time of
48 the Employee’s most recent separation from active service with the
49 Concessionaire; or

50 (2) is, or can be qualified for the position with the same training that
51 would be provided to a new Employee hired into that position; and

52 (3) continues to comply with the security requirements necessary to be
53 employed at the airport.

54 (b) The Concessionaire shall offer positions to Laid-off employees in an order of
55 preference corresponding to categories (1) and (2) in the preceding sentence.
56 Where more than one Laid-Off Employee is entitled to preference for a position,
57 the Concessionaire shall offer the position to the Laid-off employee with the
58 greatest Length of Service for the Concessionaire.

59 (c) A Laid-off employee who is offered a position pursuant to final
60 recommendations of the working group and determined by the City Manager shall
61 be given no less than 10 days in which to accept or decline the offer.

62 (d) A Concessionaire that declines to recall a Laid-off employee on the grounds of
63 lack of qualifications and instead hires someone other than a Laid-off employee
64 shall provide the Laid-off employee a written notice within 30 days identifying the
65 qualifications for those hired in lieu of such recall, along with all reasons for such
66 decision.

67 (e) The requirements of this right to return program may also apply in the
68 following circumstances:

69 (1) The ownership of the Concessionaire changed after the separation
70 from employment of a Laid-off employee and the subsequent owner is
71 conducting the same or similar operations as before January 31, 2020;

72 (2) The form of organization of the Concessionaire changed after January
73 31, 2020;

74 (3) The right to operate the concession is assigned to a different entity
75 pursuant to the terms of the lease or other agreement with the Austin-
76 Bergstrom International Airport; or

77 (4) Any combination of the circumstances described in (e)(1-3).

78 (f) For purposes of this Section,

79 1. The term “Concessionaire” means a food, beverage, and retail
80 concessionaire that is party to a concession agreement or lease
81 agreement at the Austin-Bergstrom International Airport, and any
82 subcontractor or sub-lessee performing work pursuant to such a
83 concession agreement or lease agreement.

84 2. “Employee” means an individual employed by a Concessionaire.
85 The term “Employee” does not include an employee who is a
86 manager, supervisor, or a confidential employee.

87 3. “Laid-off employee” means any Employee who was employed by a
88 Concessionaire for six months or more in the 12 months preceding
89 January 31, 2020, and whose most recent separation from active
90 service occurred after January 31, 2020 and was due to a government
91 shutdown order, lack of business, a reduction in force or other,
92 economic, non-disciplinary reason.

93 4. “Length of Service” means the total of all periods of time during
94 which an Employee has been in active service, including periods of
95 time when the Employee was on leave or on vacation.

96 (g) **Supersession by Collective Bargaining Agreement.** A Concessionaire is
97 exempt from the requirements of this incentive program if it is party to a *bona*
98 *fide* collective bargaining agreement that has a right to return in its terms.

99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118

(h) Remedies.

The right to return program should consider all remedies allowed by Federal Aviation Administration Grant Assurances, federal law, state law, and bond covenants that will further the goals of the right to return program while not interfering with the Airport’s ability to operate and recover from COVID-19 and that will not impair the existing contracts between the airport and the Concessionaires.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to report recommendations from the working group for a right to hire program or possible federally and bond-compliant incentives back to Council no later than June 11, 2020 Council; and further return to Council for action if needed, by the same date.

ADOPTED: _____, 2020

ATTEST: _____
Jannette S. Goodall
City Clerk